

 <p><b>KENTUCKY CORRECTIONS</b> Policies and Procedures</p>	Policy Number	Total Pages
	3.5	4
	Date Filed	Effective Date
	May 14, 2008	September 5, 2008
Authority/References 29 C.F.R. §1604.11, 29 C.F.R. §1606.8, 29 U.S.C.A. §621 et seq., 42 U.S.C.A. §2000e et seq., 42 U.S.C.A. §12101 et seq. KRS 196.035, 197.020, 344.020, 531.010(3) ACA 4-4056, P & P ACA 3-3053	Subject  <b>SEXUAL HARASSMENT and ANTI-HARASSMENT</b>	

## I. DEFINITIONS

“Disability” is defined in KRS 344.010(4) and 344.030(1).

“Harassment” means continuous verbal or non-verbal conduct of one (1) or more employees which directly results in the inability of another employee to perform his job duties or otherwise adversely affects another employee’s employment opportunities.

“Obscene” is defined in KRS 531.010(3).

“Religion” is defined in KRS 344.030(7).

“Retaliation” means verbal or physical threats against the complainant or a witness or denial of an employment benefit to which the employee is entitled.

“Sexual harassment” is defined in 29 C.F.R. §1604.11.

## II. POLICY and PROCEDURES

Any form of harassment on the basis of sex, religion, age, disability, gender, color, race, national origin, sexual orientation, gender identity, ancestry, or veteran’s status shall not be tolerated. Corrections shall prohibit offensive or inappropriate conduct at work before the conduct rises to the level set by 29 C.F.R. § 1604.11. Corrections’ employees shall be advised to avoid offensive or inappropriate conduct or sexually harassing behavior at work. Complaints of harassment based on sex, age, disability, gender, religion, color, race, national origin, sexual orientation, gender identity, ancestry, or veteran’s status shall be investigated in a prompt, effective, and uniform manner. Appropriate action shall be taken to ensure that any harassment shall not recur.

### A. Prohibited Behavior

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In addition to the conduct prohibited by 29 C.F.R. §1604.11, 29 C.F.R. §1606.8, 29 U.S.C.A. §621 et seq., 42 U.S.C.A. §2000e et seq., 42 U.S.C.A. §12101 et seq., other prohibited behavior shall include:

1. Lewd or sexual comments about an individual's body or attire;
2. Sexual innuendo, including embarrassing comments or terminology ;
3. Vulgar or indecent gesture, language, or joke;
4. Bringing or displaying a sexually suggestive object, book, magazine, photograph, cartoon, calendar, publication, or picture in the workplace;
5. Use of the computer to transmit, solicit, display, or download an obscene message or material which violates Corrections Policies and Procedures 6.5; or
6. Threatening, demeaning, or offensive conduct directed toward, or regarding, an individual because of his age, disability, gender, religion, color, race, or national origin.

#### B. Employee Responsibility

If an employee is subjected to sexual harassment or any other type of harassment or other prohibited behavior, he shall report the harassment to a supervisor, the EEO counselor, or the Personnel Administrator. If the incident is reported, the employee shall be asked to put his complaint in writing. The report shall include exactly what occurred, including the date, time, and place of the occurrence. The employee shall also include the name of any witness who was present or may have seen or heard the incident.

#### C. Supervisor Responsibility

1. The supervisor or other individual receiving a complaint of prohibited or inappropriate conduct shall ask the employee to put the specifics of his complaint in writing. If the employee refuses, the supervisor or other individual shall:
  - a. Document the refusal and the specifics of the complaint as told to him by the complaining employee; and
  - b. Ask the employee to confirm that his written version is accurate.

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2. The supervisor shall obtain written statements from the accused and others who witnessed or have knowledge of the incident.
3. A supervisor or other individual receiving a complaint of sexual harassment shall report it directly to the Warden, District Supervisor, or Division Director, who shall contact the Division of Personnel Services before taking further action.

#### D. Investigation

1. Depending upon the type and nature of the complaint, the Personnel Director shall determine whether the investigation shall be conducted at the district or institutional level or by an outside investigator. The complainant, the alleged harasser, and any witness may be asked to submit additional written statements and may be interviewed. During the course of the investigation, the complainant and the alleged harasser may be temporarily re-assigned. The alleged harasser may be placed on special investigative leave pursuant to 101 KAR 2:102.
2. The Personnel Director shall notify appropriate staff within the Department of Corrections on a need to know basis.

#### E. Final Action

1. Appropriate action, which may include disciplinary action up to and including dismissal, shall be taken based upon the findings of the investigation. The complainant and the alleged harasser shall be informed of the findings and of any action to be taken. If the findings are inconclusive but the investigation reveals potentially problematic conduct, preventative action shall be taken. The alleged harasser shall be reminded of Corrections' policy and further preventative measures may be taken including additional training to avoid a future recurrence or permanent re-assignment.
2. The victim of harassment shall be referred to the appropriate resources, if necessary, to receive help in dealing with the effects of the harassment.

#### F. Confidentiality

The privacy of the complainant and the accused harasser shall be protected to the fullest extent permitted by the circumstances. An individual interviewed in the course of resolving the complaint shall be cautioned to treat the information as confidential. Breach of this confidentiality shall be grounds for disciplinary action.

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G. Retaliation

Retaliation by or against any party involved in a complaint shall be strictly prohibited. Retaliation by itself shall be grounds for disciplinary action.

H. Disciplinary Action

An employee who disrupts the workplace by spreading rumors about an employee or encourages hostility among co-workers by making false or malicious statements concerning a co-worker may be subject to disciplinary action.

I. False Accusation

If a complaint is filed falsely and maliciously, or if it is learned that false information is intentionally provided to anyone in the course of an investigation, disciplinary action shall be taken.